

## District Judge Daybook Entry

United States District Court - Southern District of West Virginia at Beckley

Date: 2/23/2010

Case Number 5:10-cv-69

Case Style: Marfork Coal Company vs. David Aaron Smith

Type of hearing Preliminary Injunction Hearing

Before the honorable: 2516-Berger

Court Reporter Lisa Cook

Courtroom Deputy Kierstin Tudor

Attorney(s) for the Plaintiff or Government see appearances below

Attorney(s) for the Defendant(s) see appearances below

Law Clerk LaDonna Webster

Probation Officer

### Trial Time

Preliminary Injunction. Day No: 1

### Non-Trial Time

### Court Time

10:07 am to 12:23 pm

12:42 pm to 1:33 pm

Total Court Time: 3 Hours 7 Minutes Court actively conducting trial proceedings/Contested proceedings

### Courtroom Notes

Scheduled Start 10:00 a.m.

Actual Start 10:07 a.m.

Attorney Appearances: Samuel Brock III & Andrew McCallister (for Plaintiff); Thomas Rist, Roger Forman & David Dawson (for Defendants)

Parties present to address Plaintiff's motion for preliminary injunction [Docket 4].

Court sets forth relevant background in the case.

Plaintiff calls MIKE BAYES; oath given.

Plaintiff Exhibit 1 marked; admission denied.

Plaintiff Exhibit 2 marked; admission denied.

Direct by Mr. Brock.

Plaintiff Exhibit 3 marked and admitted.

Plaintiff Exhibit 4 marked and admitted.

Plaintiff Exhibit 5 marked and admitted.

Plaintiff Exhibit 6 marked and admitted.

Plaintiff Exhibit 7 marked and admitted.

Plaintiff Exhibit 8 marked and admitted.

Plaintiff Exhibit 9 marked and admitted.

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Plaintiff Exhibit 10 marked and admitted.

Plaintiff Exhibit 11 marked and admitted.

Plaintiff Exhibit 12 marked and admitted.

Plaintiff Exhibit 13 marked and admitted.

Cross by Mr. Rist.

Redirect.

Plaintiff calls CHRIS BLANCHERT; oath given.

Direct by Mr. Brock.

Plaintiff Exhibit 14 marked and admitted.

Cross by Mr. Forman.

Defendant Exhibit 1 marked and admitted.

Defendant Exhibit 2 marked; Court defers ruling on admittance.

Court takes recess at 12:23 p.m.

Court resumed at 12:42 p.m.

Witness BLANCHERT resumes stand.

Cross by Mr. Forman continues.

Defendant calls JULIA BONDS; oath given.

Direct by Mr. Forman.

Cross by Mr. Brock.

Plaintiff Exhibit 1 admitted.

Mr. Brock makes argument in support of Plaintiff's motion.

Mr. Rist makes argument on behalf of Defendants.

Court concluded at 1:33 p.m.